

Affordable Care Act: Employer Shared Responsibility Provision (IRC §4980H)





The information contained in this presentation is current as of May 18, 2015. For the latest information about tax provisions of the Affordable Care Act, visit IRS.gov/aca.



Agenda

- Introduction
- Employer Shared Responsibility Provisions
 - Determining Applicable Large Employer Status (ALE)
 - Defining Full-Time Employees
 - Liability for the Shared Responsibility Payment
 - Assessment and Payment
 - 2015 Transition Relief
- Information Reporting for Certain Employers
- Summary
- Additional Resources



What Employers Need to Know

- Section 4980H applies to Applicable Large Employers (ALEs)
 - ALEs are employers with at least 50 full-time employees (including full-time equivalent employees)
- Section 4980H does NOT apply to employers with fewer than 50 full-time employees (including full-time equivalent employees)
- Applicable Large Employer (ALE) status
- Employer Shared Responsibility Provisions (§4980H)
- ALE Information Reporting (§6056)



The Employer Shared Responsibility Provisions

- In general, ALEs must either:
 - Offer health coverage that is affordable and that provides minimum value to their full-time employees (and their dependents),
 - or*
 - May be subject to an employer shared responsibility payment
- Effective beginning January 1, 2015
- Various forms of 2015 transition relief, including for eligible ALEs with less than 100 full-time employees (including full-time equivalent employees)



Determining ALE Status

- Average number of employees and their hours of service in preceding year determines ALE status for the current year
- Full-time employees are defined as 30 hours/week or 130 hours/month
- Definition of full-time equivalent employee
- Seasonal worker exception
- Common ownership and controlled groups
- Transition relief for 2015 ALE determination



ALE Example: Subject to ESRP

- Company X had 40 full-time employees and 20 part-time employees at 60 hours of service/month
 - The 20 part-time employees = 10 full-time-equivalent employees
 - 40 FT plus 10 FTE = ALE (50 FT/FTE)

- Company X is subject to the employer shared responsibility provisions



ALE Example: NOT Subject to ESRP

- Company Y had 20 full-time employees and 20 part-time employees at 60 hours of service/month
 - The 20 part-time employees = 10 full-time-equivalent employees
 - 20 FT plus 10 FTE = 30 FT/FTE

- Company Y is **NOT** subject to the employer shared responsibility provisions



Common Owner ALE Example

- For all of 2015 & 2016, Corp A owns 100% of Corp B and Corp C
- Number of 2015 FT employees:
 - Corp A – None
 - Corp B – 40
 - Corp C – 60

Total – 100
- Corp A + B + C is an ALE for 2016
- Corp B & C are each an ALE member



Determining Full-Time Employee Status

- FT = 30 hours/week or 130 hours/month
- Two measurement methods
 - Monthly
 - Look-back
- Defining an hour of service
 - Hour for which paid or entitled to be paid
 - Special rules



Liability for Employer Shared Responsibility

- Generally, liability exists if employer:
 - (a) Does not offer coverage to at least 95% of FT employees (and their dependents) **and** at least one FT employee receives the PTC
 - OR
 - (b) Does offer coverage to at least 95% of FT employees (and their dependents), **but** at least one FT employee receives the PTC because, for that full-time employee, coverage
 - was not offered
 - was unaffordable, or
 - did not provide minimum value
- 2015 Transition relief



Definition of Affordability and Minimum Value

- Affordability
 - Affordable if employee's share of lowest cost self-only coverage does not exceed 9.5% of household income
 - Three employer "safe harbors" under section 4980H

- Minimum value
 - Covers at least 60% total cost of benefits
 - Per Notice 2014-69, must cover substantial in-patient hospital and physician services (effective prospectively)



Payment Amount

- Offer to less than 95% (70% for 2015*)
 - Payment of 1/12 of \$2,000 per FT employee, above 30 threshold (per month)

- Offer to at least 95% (70% for 2015*)
 - Payment of 1/12 of \$3,000 per PTC-receiving FT employee, (per month), subject to limitation

* 2015 Transition Relief



How is the payment assessed?

- Employer will not make a payment with a return
- IRS will determine amount and notify employer
- Employer will have opportunity to respond before assessment
- IRS will send a notice and demand after assessment



Additional Transition Relief

2015 Transition Relief

- Eligible employers with 50-99 FT + FTE employees (requires certification)
- Dependent coverage
- Non-calendar year plans
- First payroll rule (January 2015)

Interim Rule

- Multiemployer plans



ALE Information Reporting (§6056)

- Effective 2015; first returns due 2016
- Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns (1094-C):
 - Use for 2015 transition relief
 - Number of FT employees
 - Employer-level data
- Employer–Provided Health Insurance Offer and Coverage Form (1095-C):
 - Provided to employees and submitted to IRS
 - Information for each FT employee including any coverage offered, employee cost of self-only coverage, and months employee enrolled
- Application and registration with the IRS will be required to submit electronic returns



Employer Shared Responsibility Key Points

- Does not apply if an employer has fewer than 50 full-time employees (including full-time equivalent employees)
- No payment owed for failure to offer coverage to non-full-time employees
- No payment owed if no full-time employee receives a PTC



Summary

- Applicable Large Employer (ALE) defined
- Employer Shared Responsibility Provisions (§4980H)
- ALE Information Reporting (§6056)



Affordable Care Act Resources

Topic	Details	Source
ACA Tax Law	IRS ACA Homepage	irs.gov/aca
	4980H – Employer Shared Responsibility Provisions	http://www.irs.gov/Affordable-Care-Act/Employers/Employer-Shared-Responsibility-Provisions
	4980H Q&As	http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act
	Legal Guidance and Other Resources	irs.gov/Affordable-Care-Act/Affordable-Care-Act-of-2010-News-Releases-Multimedia-and-Legal-Guidance
Final Regulations	4980H Final Regulations	http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf
Other Health Care Information	HHS	HealthCare.gov
	SBA	SBA.gov/healthcare
	DOL	DOL.gov/ebsa/healthreform